

**Introduced by Senator Negrete McLeod**

February 21, 2007

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An act to amend Section 2827.9 of the Public Utilities Code, relating to energy.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 463, as introduced, Negrete McLeod. Energy: biogas digester customer-generator pilot program.

Under existing law, electrical corporations are required to provide eligible biogas digester customer-generators, as defined, that commence operation by December 31, 2009, with net energy metering, as defined, under a pilot program. Existing law requires an electrical corporation to file a standard tariff providing for net energy metering for up to 3 large biogas digester electrical generating facilities with a capacity of more than one megawatt and not more than 10 megawatts. Existing law authorizes an eligible biogas digester customer-generator to continue to receive service pursuant to the net energy metering tariff for the life of the facility, after December 31, 2009. Existing law provides that if the electricity generated by the eligible biogas digester customer-generator exceeds the electricity supplied by the electrical corporation over a 12-month period, the eligible biogas digester customer-generator is a net electricity producer and the electrical corporation retains any excess kilowatthours generated over the 12-month period.

Under the bill, an electrical corporation would retain any excess kilowatthours generated if the electrical corporation and the eligible biogas digester customer-generator have entered into a contract for the purchase and sale of excess electricity generated during periods if the eligible biogas digester customer-generator is a net electricity producer.

If there is no contract, the eligible biogas digester customer-generator would not be owed any compensation for those excess kilowatthours.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2827.9 of the Public Utilities Code is  
2 amended to read:

3 2827.9. (a) (1) The Legislature finds and declares that a pilot  
4 program to provide net energy metering for eligible biogas digester  
5 customer-generators would enhance the continued diversification  
6 of California's energy resource mix and would encourage the  
7 installation of livestock air emission controls that the State Air  
8 Resources Board believes may produce multiple environmental  
9 benefits.

10 (2) The Legislature further finds and declares that the net energy  
11 metering pilot program authorized pursuant to this section for  
12 eligible biogas digester customer-generators, which nets out  
13 generation charges against generation charges on a time-of-use  
14 basis, furthers the intent of Chapter 7 of the Statutes of 2001, First  
15 Extraordinary Session, by facilitating the implementation of energy  
16 efficiency programs in order to reduce consumption of energy,  
17 reduce the costs associated with energy demand, and achieve a  
18 reduction in peak electricity demand.

19 (b) As used in this section, the following definitions apply:

20 (1) "Electrical corporation" means an electrical corporation, as  
21 defined in Section 218.

22 (2) (A) "Eligible biogas digester customer-generator" means  
23 a customer of an electrical corporation that meets both of the  
24 following criteria:

25 (i) Uses a biogas digester electrical generating facility with a  
26 capacity of not more than one megawatt that is located on or  
27 adjacent to the customer's owned, leased, or rented premises, is  
28 interconnected and operates in parallel with the electric grid, and  
29 is sized to offset part or all of the eligible biogas digester  
30 customer-generator's own electrical requirements.

31 (ii) Is the recipient of local, state, or federal funds, or who  
32 self-finances pilot projects designed to encourage the development  
33 of eligible biogas digester electrical generating facilities.

1 (B) Notwithstanding subparagraph (A), up to three large biogas  
2 digester electrical generating facilities with a generating capacity  
3 of more than one megawatt and not more than 10 megawatts,  
4 otherwise meeting the criteria of this section, shall be eligible for  
5 participation in the pilot program.

6 (3) “Eligible biogas digester electrical generating facility” means  
7 a generating facility used to produce electricity by either a manure  
8 methane production project or as a byproduct of the anaerobic  
9 digestion of biosolids and animal waste.

10 (4) “Net energy metering” means measuring the difference  
11 between the electricity supplied through the electric grid and the  
12 difference between the electricity generated by an eligible biogas  
13 digester customer-generator and fed back to the electric grid over  
14 a 12-month period as described in subdivision (e). Net energy  
15 metering shall be accomplished using a time-of-use meter capable  
16 of registering the flow of electricity in two directions. If the existing  
17 electrical meter of an eligible biogas digester customer-generator  
18 is not capable of measuring the flow of electricity in two directions,  
19 the eligible biogas digester customer-generator shall be responsible  
20 for all expenses involved in purchasing and installing a meter that  
21 is able to measure electricity flow in two directions. If an additional  
22 meter or meters are installed, the net energy metering calculation  
23 shall yield a result identical to that of a time-of-use meter.

24 (c) Every electrical corporation shall file with the commission  
25 a standard tariff providing for net energy metering for eligible  
26 biogas digester customer-generators, consistent with this section.  
27 Every electrical corporation shall make this tariff available to  
28 eligible biogas digester customer-generators upon request, on a  
29 first-come-first-served basis, until the combined statewide  
30 cumulative rated generating capacity used by the eligible biogas  
31 digester customer-generators in the service territories of the three  
32 largest electrical corporations in the state reaches 50 megawatts.  
33 An eligible biogas digester customer-generator shall be eligible  
34 for the tariff for the life of the eligible biogas digester electrical  
35 generating facility.

36 (d) Each net energy metering contract or tariff shall be identical,  
37 with respect to rate structure, all retail rate components, and any  
38 monthly charges, to the contract or tariff to which the same  
39 customer would be assigned if the customer was not an eligible  
40 biogas digester customer-generator, except as set forth in

subdivision (e). Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible biogas digester customer-generator's costs beyond those of other customers in the rate class to which the eligible biogas digester customer-generator would otherwise be assigned are contrary to the intent of this legislation, and shall not form a part of net energy metering tariffs.

(e) The net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized metering calculation:

(1) The eligible biogas digester customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible biogas digester customer-generator's system with an electrical corporation, and at each anniversary date thereafter, be billed for electricity used during that period. The electrical corporation shall determine if the eligible biogas digester customer-generator was a net consumer or a net producer of electricity during that period. For purposes of determining if the biogas digester customer-generator was a net consumer or a net producer of electricity during that period, the electrical corporation shall aggregate the electrical load of a dairy operation under the same ownership, including, but not limited to, the electrical load attributable to milking operations, milk refrigeration, and water pumping located on property adjacent or contiguous to the dairy. Each aggregated account shall be billed and measured according to a time-of-use rate schedule.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electrical corporation exceeds the electricity generated by the eligible biogas digester customer-generator during that same period, the eligible biogas digester customer-generator is a net electricity consumer and the electrical corporation shall be owed compensation for the eligible biogas digester customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible biogas digester customer-generator's consumption shall be calculated as follows:

(A) The generation charges for any net monthly consumption of electricity shall be calculated according to the terms of the tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible biogas digester customer-generator. When those eligible biogas digester customer-generators are net generators during any discrete time-of-use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electrical corporation would charge for retail kilowatthour sales for generation, exclusive of any surcharges, during that same time-of-use period. If the eligible biogas digester customer-generator's time-of-use electrical meter is unable to measure the flow of electricity in two directions, paragraph (4) of subdivision (b) shall apply. All other charges, other than generation charges, shall be calculated in accordance with the eligible biogas digester customer-generator's applicable tariff and based on the total kilowatthours delivered by the electrical corporation to the eligible biogas digester customer-generator. To the extent that charges for transmission and distribution services are recovered through demand charges in any particular month, no standby reservation charges shall apply in that monthly billing cycle.

(B) The net balance of moneys owed shall be paid in accordance with the electrical corporation's normal billing cycle.

(3) At the end of each 12-month period, where the electricity generated by the eligible biogas digester customer-generator during the 12-month period exceeds the electricity supplied by the electrical corporation during that same period, the eligible biogas digester customer-generator is a net electricity producer ~~and the~~. *The electrical corporation shall retain any excess kilowatthours generated during the prior 12-month period. The if the electrical corporation and the eligible biogas digester customer-generator have entered into a contract for the purchase and sale of excess electricity generated during periods in which the eligible biogas digester customer-generator is a net electricity producer. If there is no contract, the* eligible biogas digester customer-generator shall not be owed any compensation for those excess kilowatthours.

(4) If an eligible biogas digester customer-generator terminates service with the electrical corporation, the electrical corporation shall reconcile the eligible biogas digester customer-generator's

1 consumption and production of electricity during any 12-month  
2 period.

3 (f) No biogas digester electrical generating facility shall be  
4 eligible for participation in the tariff established pursuant to this  
5 section, that has not commenced operation by December 31, 2009.  
6 A biogas digester customer-generator shall be eligible for the tariff  
7 established pursuant to this section, only for the operating life of  
8 the eligible biogas digester electrical generating facility.

9 (g) No biogas digester electrical generating facility that is subject  
10 to the best available control technology (BACT) requirements shall  
11 be eligible for participation in the tariff pursuant to this section  
12 unless the biogas digester electrical generating facility has installed  
13 the best available control technology as required by the ~~regional~~  
14 *local* air pollution control district *or air quality management*  
15 *district* at the time of installation to ensure the maximum feasible  
16 reductions in toxic and criteria pollutants.

17 (h) On or before December 31, 2008, the commission, in  
18 collaboration with the State Air Resources Board, shall report to  
19 the Legislature all of the following information:

20 (1) The impact of the pilot program on emissions of air  
21 pollutants.

22 (2) The impact of the pilot program on the reliability of the  
23 transmission and distribution grid.

24 (3) The impact of the pilot program on ratepayers.